FILE COPY

Office - Supreme Court, U. S.
FILED
OCT 28 1946
CHARLES ELMORE CROPLEY
CLERK

No. 593

IN THE

Supreme Court of the United States

October Term 1946

FRANCIS R. COPE, JR.,

Petitioner,

v.

A. M. ANDERSON, Receiver of the National Bank of Kentucky,

Respondent.

BRIEF OF RESPONDENT IN RESPONSE TO PETITION FOR WRIT OF CERTIORARI

ROBERT S. MARX,
FRANK E. WOOD,
WM. C. KELLY,
HARRY KASFIR,
VINCENT C. VELDORALE,
Counsel for Respondent.

THE JOHNSON & HARDIN CO., LAW PRINTERS
CINCINNATI, OHIO

No. 593

IN THE

Supreme Court of the United States

October Term 1946

FRANCIS R. COPE, JR.,

Petitioner,

v.

A. M. ANDERSON, Receiver of the National Bank of Kentucky,

Respondent.

BRIEF OF RESPONDENT IN RESPONSE TO PETITION FOR WRIT OF CERTIORARI

TO THE HONORABLE THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

The Respondent, A. M. Anderson, Receiver of the National Bank of Kentucky, respectfully submits that this petition for writ of certiorari should be granted in order to resolve the conflict of the decision in this case with the decision of the Sixth Circuit Court of Appeals on the same matter. The Respondent herein has addressed to this honorable court his petition for a writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit in the case of *Lawrence S. Helmers, et al.* v. *Respondent*, decided June 24, 1946, which petition is No. , October Term 1946. In said petition for a writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit the Respondent respectfully submits that the Sixth

Circuit Court of Appeals erroneously determined the question involved in that case and that the United States Circuit Court of Appeals for the Third Circuit correctly decided the same question in the present case.

The Respondent having set forth in the petition for certiorari to the Sixth Circuit Court of Appeals his contention as to the correct rule of federal law to be applied herein, respectfully refers to said petition for certiorari and the brief in support thereof to avoid unnecessary repetition herein.

Although Respondent believes that the question involved was correctly determined by the Circuit Court of Appeals for the Third Circuit, a review of which is sought herein, and that said decision is in conformity with the applicable decisions of this court, Respondent recognizes that it would be obviously unjust to impose liability upon the shareholders who are defendants in the present case and to relieve the shareholders residing in Ohio from liability in the case decided by the United States Circuit Court of Appeals for the Sixth Circuit.

Wherefore, Respondent believes that it would be in the interest of justice to grant the prayers of the petitions for a writ of certiorari to review the judgment of the Circuit Court of Appeals for the Third Circuit, entered August 13, 1946, and the judgment of the Circuit Court of Appeals for the Sixth Circuit, entered June 24, 1946, in the case of *A. M. Anderson, Petitioner* v. *Lawrence S. Helmers,* No. , October Term 1946.

ROBERT S. MARX,
FRANK E. WOOD,
WM. C. KELLY,
HARRY KASFIR,
VINCENT C. VELDORALE,
Counsel for Respondent.